

21 December 1953

Memorandum for: Acting Deputy Director (Administration)

From: Office of General Counsel

Subject: Travel Expenses - Mr. [REDACTED]

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1. In connection with the termination of Mr. [REDACTED] the question has been presented whether enforcement of collection back of the money paid for transportation of himself and his family to his foreign post of duty should be required.

2. [REDACTED]

[REDACTED] However, the Agency, by administrative practice, requires that each employee assigned overseas sign an agreement that he will serve two years from the date of his arrival at the overseas post of duty unless terminated by the Government for its convenience, and that resignation in less than twelve months shall cause the travel and transportation expenses incurred in movement to the overseas post to be repaid to the Agency. The agreement further provides that the expenses of return travel to the United States will not be allowed by the Agency if the employee fails to serve two years at the overseas post, unless terminated by the Government for its convenience.

3. The Agency agreement is based in the standards established by Public Law 600, the "Administrative Expense Act of 1946," as amended by Public Law 830, 81st Congress. By the standards established in the Administrative Expense Act, published decisions

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of the Comptroller General indicate that collection back would not be required where, as in the instant case, the employee had served in excess of one year from the date of his assignment to such post even though termination might have been effected by resignation for personal reasons of the employee.

4. The standard relating to collection back of the expenses of travel to the overseas post established by this Agency is somewhat more stringent than the published construction of the Administrative Expense Act by the General Accounting Office. However, it is in accord with the legislative history of the amendments contained in Public Law 830. Those amendments have not been officially ruled upon by GAO. Nevertheless, were a contest to arise before the courts, the purely legal question would be presented, whether the legislative history of the amendments could be brought to bear where the words used in the amendment are apparently clear and unambiguous.

5. Although a close question is presented, this office perceives no legal objection to the determination that enforcement of collection back by the Finance Division for the expense of travel and transportation to the overseas post, not be required.

6. However, even though it might normally follow that a determination relating to collection of the expense of travel to the overseas post would control approval of the expense of travel and transportation from the overseas post to the United States, it is the opinion of this office that the fact situation is not one which lends itself to the normally consequent approval of the return expenses.

OGC/JGO:imm

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